

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1645 of 1987

WITH

CIVIL APPLICATION NO. 6490 OF 1998

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? -
2. To be referred to the Reporter or not? -
3. Whether Their Lordships wish to see the fair copy of the judgement? -
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? -
5. Whether it is to be circulated to the Civil Judge?

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JANARAKSHAK COOPERATIVE

HOUSING SOCIETY LTD

Versus

STATE OF GUJARAT

Appearance:

MR AV PRAJAPATI FOR MR PB MAJMUDAR for Petitioner
MR BY MANKAD, AGP for Respondents.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 02/02/99

ORAL JUDGEMENT

The members of the petitioner Society are 13 in number who are government servants and they have formed and got registered the petitioner society under the provisions of the Gujarat Cooperative Societies Act, 1961 for the purpose of providing the housing accommodation for its members.

2. There was a waste land of the Government situated in Chandlodia area of Ahmedabad city bearing survey no. 46. The petitioner society applied for the land in dispute for the purpose of construction of the housing accommodation and that land was for disposal for construction of housing accommodation for weaker section of the society at reasonable price. As per the knowledge of the petitioner, the price of Rs.20/- per sq. mtr. was fixed by the Government and necessary inquiries were made by the Collector from the Town Planning authority and also from Ahmedabad Urban Development Authority. The Collector, Ahmedabad also issued a letter to the petitioner society to the effect that the petitioner should furnish the certificate of registration of the petitioner society as well as the names of the members of the petitioner society. The Collector, Ahmedabad issued a certificate in the month of May, 1984. When the requirements of the petitioner society reached at the level of the District Collector, the petitioner's request was rejected by the letter dated 17-2-1987.

3. Learned State counsel makes statement that the land in dispute is the subject matter of the Civil Court and the same is sub-judice and hence the land in question cannot be allotted to the petitioner. The learned counsel for the petitioner submitted that in case the land in dispute is not available due to any reason, the Government may be directed to allot some other land for the purpose of residential accommodation of the members of the petitioner - society. For this purpose, the petitioner - society will have to make a representation before the concerned authority and if any alternative land is available the authority concerned will consider the demand of the petitioner as the demand of the petitioner - society for the land is pending since 1987 in this Court.

4. Considering the facts and circumstances of the case, this petition is being disposed of with a direction that the petitioner - society will make a representation to the authority concerned for allotment of the land in dispute for the purpose of construction of housing accommodation for its members within a month and if the petitioner makes such representation, the authority concerned will consider the demand of the petitioner for the land in dispute and in case the land in dispute is not available then some other suitable alternative land if available may be allotted to the petitioner society for the purpose of construction of housing accommodation for the members of the petitioner society, within a

period of two months thereafter.

5. Rule is made absolute to the aforesaid extent with no order as to costs. Interim order, if any stands vacated.

6. In view of the above order passed in the main petition Civil Application No. 6490/98 does not survive and hence the same stands disposed of accordingly, with no order as to costs.

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/JVSatwara/